

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN BRAGORGOS,

Plaintiff,

V.

ELAINE CHAO, in her capacity as
SECRETARY OF TRANSPORTATION,

Defendant.

Case No: 3:17-cv-358-LRH-VPC

STIPULATED PROTECTIVE ORDER

EXPEDITED REVIEW REQUESTED

Plaintiff Steven Bragorgos (“Plaintiff”) and Defendant Elaine Chao (“Defendant”), by and through their undersigned counsel, hereby stipulate and request the entry of a protective order as stated herein. This is an action brought under the Rehabilitation Act. The parties anticipate that because of the nature of this action, discovery will include information maintained by Defendant that may be subject to the provisions of the Privacy Act, 5 U.S.C. § 552a, and otherwise subject to protection from disclosure. This order shall be considered an order allowing for disclosure pursuant to 5 U.S.C. § 552a(b)(11).

Through this protective order, the parties seek to address the handling of confidential information, including, but not limited to, testimony, records and information protected by the Privacy Act. In order to permit the parties to discover and disclose to each other such confidential information as is relevant to this case, and pursuant to Rule 26 of the Federal Rules of Civil Procedure, the parties stipulate and consent to the following:

1 1. Defendant is authorized to release to other parties in this case testimony, records
2 and information otherwise protected by the Privacy Act without obtaining prior written consent
3 of the individual(s) to whom such information pertains, provided that such information is
4 relevant to this litigation. Nothing in the protective order is intended to limit or preclude in any
5 way Defendant's existing rights to access and review documents containing Privacy Act
6 information.

7 2. Whenever counsel for any party believes that formal or informal discovery in
8 this case, in whatever form, may reveal or has revealed personnel, training, medical, and/or
9 other records that are likely to contain confidential information including, but not limited to,
10 testimony, records and information protected by the Privacy Act or the Health Insurance
11 Portability and Protection Act, the following procedures shall be followed:

12 a. Counsel for the party producing records containing confidential
13 information shall designate the information as subject to this order by letter and by marking
14 documents containing such information with the notation "CONFIDENTIAL." Upon request
15 from the other party, counsel for the producing party will promptly explain its basis for
16 designating material as being subject to the protective order.

17 b. The right of access to all records designated "CONFIDENTIAL" under
18 this order (unless the parties have agreed otherwise or the Court enters a separate order
19 permitting disclosure) shall be limited to the parties, counsel for the parties, consultants, and
20 expert witnesses, as well as staff in their employ with a need for access in order for each party to
21 prosecute or defend this action including, but not limited to, paralegals, legal assistants, and
22 nurses, and any other persons mutually authorized by all counsel to examine such materials. Any
23 person having access to information subject to this order shall be informed that it is confidential
24 and subject to a protective (non-disclosure) order of the Court.

25 c. Except as provided herein, no person having access to material
26 designated as subject to this order shall reveal to any person not named in paragraph 2(b) any
27 information contained in such material without further order of the Court or stipulation of the
28 parties.

1 d. When a CONFIDENTIAL record is marked as an exhibit, or otherwise
2 used during questioning at a deposition, counsel shall inform the court reporter and witness of
3 the CONFIDENTIAL designation, and the document and applicable portions of the deposition
4 transcript shall be treated as CONFIDENTIAL in accordance with the terms of this order.

5 e. CONFIDENTIAL records shall be filed, if at all, under seal, subject to
6 and in accordance with, *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir.
7 2006) and this Court's CM/ECF filing procedures for sealed materials.

8 f. If a party disagrees with another party's designation of material as
9 CONFIDENTIAL, and if the parties are unable to resolve the disagreement, the party opposing
10 the designation may seek an order from the Court removing the disputed material from the
11 protection of this protective order. Until any such disagreement is adjudicated, the party in
12 receipt of CONFIDENTIAL materials shall treat the records and information as
13 CONFIDENTIAL in accordance with the terms of this order.

14 g. Within forty-five (45) days of the conclusion of all trial and appellate
15 proceedings in this case, counsel for the receiving party shall either return to counsel for the
16 producing party all documents and copies of documents designated as "CONFIDENTIAL"
17 under this order or certify that such documents and copies have been destroyed.

18 h. This order is without prejudice to the rights of any party to introduce, or
19 object to the introduction, into evidence at trial or during summary judgment proceedings any
20 materials that are subject to this order.

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1 i. This order is without prejudice to the rights of any party to make any
2 objections to discovery requests as permitted by the Federal Rules of Civil Procedure, statute or
3 other authority.

4 Respectfully submitted this 6th day of August 2018.

6 LAW OFFICE OF MICHAEL
7 E. LANGTON


8 /s/ Michael E. Langton
9 MICHAEL E. LANGTON, Esq.
801 Riverside Drive
Reno, Nevada 89503
10 *Attorney for Plaintiff*

DAYLE ELIESON
United States Attorney

11 /s/ Holly A. Vance
12 HOLLY A. VANCE
Assistant United States Attorney
13 *Attorneys for Defendant*

14 IT IS SO ORDERED:

15 DATED this 14th day of August, 2018

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17 LARRY R. HICKS
18 UNITED STATES DISTRICT JUDGE
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